

1                   **BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS**  
2                                   **IN MEDICINE AND SURGERY**

3  
4   IN THE MATTER OF:

5   **CHETAN PATEL, D.O.**  
6   Holder of License No. 4214

7   For the practice of osteopathic medicine in  
8   the State of Arizona.

Case No. DO-17-0184A

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER FOR DECREE OF  
CENSURE AND PROBATION**

9                                   **CONSENT AGREEMENT**

10           By mutual agreement and understanding, between the Arizona Board of  
11   Osteopathic Examiners in Medicine and Surgery ("Board") and Chetal Patel, D.O.  
12   ("Respondent"), the parties agree to the following disposition of this matter.

13           1.     Respondent has read and understands this Consent Agreement and the  
14   stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement").  
15   Respondent acknowledges that he has the right to consult with legal counsel regarding  
16   this matter and has done so or chooses not to do so.

17           2.     By entering into this Consent Agreement, Respondent voluntarily  
18   relinquishes any rights to a hearing or judicial review in state or federal court on the  
19   matters alleged, or to challenge this Consent Agreement in its entirety as issued by the  
20   Board, and waives any other cause of action related thereto or arising from said Consent  
21   Agreement.

22           3.     This Consent Agreement is not effective until approved by the Board and  
23   signed by its Executive Director.

24           4.     Respondent admits to the Findings of Fact and Conclusions of Law  
25   contained in the Consent Agreement.

1           5.     This Consent Agreement, or any part thereof, may be considered in any  
2 future disciplinary action against Respondent.

3           6.     This Consent Agreement does not constitute a dismissal or resolution of  
4 this or other matters currently pending before the Board, if any, and does not constitute  
5 any waiver, express or implied, of the Board's statutory authority or jurisdiction.

6           7.     All admissions made by Respondent are solely for disposition of this matter  
7 and any subsequent related administrative proceedings or civil litigation involving the  
8 Board and Respondent. Therefore, said admissions by Respondent are not intended or  
9 made for any other use, such as in the context of another state or federal government  
10 regulatory agency proceeding or civil or criminal court proceedings, in the State of  
11 Arizona or any other state or federal court.


12          8.     Upon signing this agreement, and returning this document (or a copy  
13 thereof) to the Board's Interim/Executive Director, Respondent may not revoke the  
14 consent to the entry of the Order. Modifications to this original document are ineffective  
15 and void unless mutually approved by the parties.

16          9.     This Consent Agreement, once approved and signed, is a public record that  
17 will be publicly disseminated as a formal action of the Board and will be reported to the  
18 National Practitioner Data Bank and to the Board's website.

19          10.    If any part of the Consent Agreement is later declared void or otherwise  
20 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in  
21 force and effect.

22          11.    If the Board does not adopt this Consent Agreement, (1) Respondent will  
23 not assert as a defense that the Board's consideration of the Consent Agreement  
24 constitutes bias, prejudice, prejudgment or other similar defense; and (2) the Board will  
25 not consider content of this Consent Agreement as an admission by Respondent.

1 REVIEWED AND ACCEPTED THIS 6 DAY OF March, 2018.

2   
3 Chetan Patel, D.O.

4 **JURISDICTIONAL STATEMENTS**

5 12. The Board is empowered, pursuant to A.R.S. § 32-1800 et seq., to regulate  
6 the practice of osteopathic medicine in the State of Arizona, and the conduct of the  
7 persons licensed, registered, or permitted to practice osteopathic medicine in the State of  
8 Arizona.

9 13. Respondent is the holder of License No. 4214 issued by the Board for  
10 the practice of osteopathic medicine in the State of Arizona.

11 **FINDINGS OF FACT**

12 14. On July 16, 2017, the Arizona Board of Osteopathic Examiners (hereafter  
13 "Board") received a notice involving the license of Chetan Patel, D.O. (hereafter  
14 "Respondent") indicating his privileges at North Valley Surgical Center had been  
15 suspended. On July 24, 2017, Respondent entered into a Consent Agreement that  
16 restricted his practice. On September 11, 2017, the Board received Respondent's  
17 response.

18 15. On October 4, 2017, the Board invited Respondent to attend an  
19 Investigative Hearing on this matter. Respondent personally appeared at the Investigative  
20 Hearing on November 18, 2017 with his attorney, Steve Myers.

21 16. Dr. Patel is a board certified anesthesiologist, who during all relevant times,  
22 worked at the North Valley Surgery Center. On July 16, 2017, the Board received a  
23 notice from the surgical center that Dr. Patel's privileges had been suspended after some  
24 of his patients were reporting very severe pain during recovery. The surgical center staff  
25 investigated the matter by reviewing patient records. Following an investigation the  
26 surgery center reported to the Board that the amount of pain reported by the patients

1 (significant) was inconsistent with the amount of pain medications recorded as being  
2 administered to the patients by Respondent. The facility suggested that Dr. Patel may be  
3 diverting the pain medication for his personal use.

4 17. Respondent has admitted to a substance abuse problem. Respondent was  
5 inpatient at The Promises Treatment Center for six weeks from July 19, 2017 through  
6 August 30, 2017. In its Discharge Summary, The Promises stated that Respondent "...is  
7 fit to return to duty at this time based upon criteria of the American Psychiatric  
8 Association criteria and his prognosis for sustained recovery is good as long as all after  
9 care recommendations are followed long term." On September 10, 2017, the Board's  
10 contracted addictionologist, Michael Sucher, M.D., reported on his interview with  
11 Respondent of September 6, 2017. Dr. Sucher also reported that Respondent, subject to  
12 monitoring requirements, is safe to return to the practice of anesthesia. Respondent has  
13 been subject to and compliant with the Board's monitoring program since September 6,  
14 2017.

15 18. Five patient charts were reviewed by an Outside Medical Consultant  
16 (OMC) on behalf of the Board. The patients exhibited severe pain while in recovery after  
17 surgery. It was the OMC's opinion that Respondent's care fell below the standard of care  
18 by failing to properly treat pain. Specifically, Patient A.C. underwent right knee  
19 arthroscopy, partial medial meniscectomy, and anterior cruciate ligament repair. A  
20 femoral nerve block was provided and intraop IV narcotics included: Fentanyl 200mcg,  
21 50mg Demoral, and 10mg of Morphine. After arriving in recovery the patient  
22 complained of severe pain, a "10" on a scale of 1 to 10. Additional IV narcotics were  
23 given, including 3mg of Dilaudid, 1000mg Ofirmev, and 5 mg Oxycodone po. The  
24 Board's consultant indicated that the untitrated high dose of Fentanyl given in the  
25 operative room while the patient is breathing spontaneously cannot be justified. He  
26 further opined that there would be no need for that much analgesia if the block was

1 working. Additionally, the patient arrived in recovery with significant pain indicating  
2 under treatment of pain and/or possible diversion, both of which would fall below the  
3 standard of care.

4 19. Patient L.L. presented for a routine knee arthroscopy. She was narcotic  
5 naïve and received 10 mg of Morphine and 100 mg of Demerol intraop. When in  
6 recovery she complained of severe pain and was administered 4mg of Dilaudid, 50mg  
7 Demerol, 5mg Oxycodone orally, and 1000mg po acetaminophen to make her pain  
8 tolerable. This level of pain appeared to contradict the pain treatment documented in the  
9 operative record. Failure to appropriately manage the patient's pain so as to avoid  
10 significant pain post-operatively falls below the standard of care. Given the level of pain  
11 experienced by the patient post-operatively, 10 out of 10 on a scale of 1 to 10, there was a  
12 question of whether the medications were administered to the patient or diverted.

13 20. Patient B.K. presented for right shoulder arthroscopy and rotator cuff  
14 repair. Anesthesia was noted as a general and regional (interscalene block) using 20ml  
15 Bupivacaine 0.5% with epinephrine 1/200k. Intra-op records indicated 20mg of IV  
16 Morphine (given in 1 dose in the beginning of the surgery) and 100mg IV Demerol in 1  
17 dose in the middle of the 1 hour, 38 minute surgery. B.K. complained of pain 10/10 in  
18 pacu and was given IV narcotics of : Demerol 25mg, Dilaudid 2mg total, and Ofirmev  
19 1000mg until pain was under control.

20 21. With respect to B.K, the consultant indicated that the dosages of Morphine  
21 at the beginning of the surgery were not titrated and the sudden need for 100mg of  
22 Demerol was of concern. The vital signs recorded during the surgery did not reflect any  
23 changes that would suggest a need for the 100mg of Demerol that did not last for 1 hour  
24 to control pain in recovery. The consultant opined that t this was a large dose and  
25 allegedly the patient tolerated it without adverse effects but that it fell below the standard  
26 of care.

22. The consultant indicated that nerve blocks do provide effective analgesia and reduced need for rescue analgesia during the duration of its effect. Patients rarely wake up in pain if the blocks were successful.

23. Respondent's counsel presented the written evaluations and CVs of three board certified anesthesiologists. All three anesthesiologists were of the opinion that Respondent had conformed with the standard of care and that the five patients' vital signs in PACU contradicted above normal pain scales, and in some cases, it was obvious nerve blocks were unsuccessful. One anesthesiologist reported that a sample of only five patients' descriptions of pain represented an insufficient sample for reaching a reliable conclusion. The Board members found the Board's consultant and the report from the Surgery Center to be more credible.

## CONCLUSION OF LAW

24. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (6), which states “Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.”

25. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (22), which states, “Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.”

26. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (38), which states, “Any conduct or practice that endangers the public’s health or may reasonably be expected to do so.”

27. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (39), which states, “Any conduct or practice that impairs

1 the licensee's ability to safely and skillfully practice medicine or that may reasonably be  
2 expected to do so."

3 **ORDER**

4 Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED** that  
5 Chetan Patel, D.O, holder of osteopathic medical License number 4214 is issued a  
6 **DECREE OF CENSURE.**

7 **FURTHER, IT IS HEREBY ORDERED** that Chetan Patel, D.O., holder of  
8 osteopathic medical License number, 4214 is placed on **PROBATION** for a period of  
9 five (5) years from September 6, 2017, with the following terms:

10 1. **Practice:** Physician's practice is restricted as follows:

11 a. Physician may practice up to twenty-five (25) hours per week of  
12 scheduled time beginning on February 26, 2018. Respondent may only practice  
13 when under the supervision of another physician that is on physical premise during  
14 the time Respondent is providing patient care. Until modified by the Board,  
15 Respondent may only practice at Scottsdale Plastic Surgeons, currently located at  
16 15757 N. 78th Street, Scottsdale, Arizona.

17 b. Physician shall appear before the Board at a regularly scheduled  
18 meeting for consideration of lifting or modifying the practice restriction.

19 c. Respondent may petition in writing for modification of the  
20 restriction. Upon submitting such a petition, Respondent's request will be placed  
21 on the Board's next meeting agenda.

22 2. **Participation in Monitored Aftercare:** Physician shall promptly enroll in  
23 and participate in the Board's monitored aftercare program. As part of participation,  
24 Physician shall cooperate with Board Staff. Physician may substitute monitoring of  
25 terms 4 through 18 by contracting with Post Treatment Supervision/Greenberg and  
26

1 Sucher, PC (PTS), effective the date a copy of a signed contract with PTS is provided to  
2 Board Staff.

3       3.     **12 Step or Self-Help Group Meetings:** Physician shall participate in 12-  
4 step meetings or other self-help group meetings appropriate for alcohol/substance abuse  
5 and approved by Board Staff. Physician shall attend 90 meetings in 90 days beginning no  
6 later than either (a) the first day following Physician's discharge from chemical  
7 dependency treatment or (b) the effective date of this Agreement. After successful  
8 completion of those 90 meetings, Physician shall attend a minimum of three 12-step or  
9 other self-help program meetings per week. The log of attendance for those meetings  
10 shall be initialed by the meeting leader.

11       4.     **Board-Staff Approved Primary Care Physician:** Physician shall  
12 promptly obtain a primary care physician ("PCP") and shall submit the name of the  
13 physician in writing to Board Staff for approval. Respondent shall schedule the  
14 appointment within 14 days of the effective date of the Order and the appointment shall  
15 be completed within 45 days thereafter. The PCP shall not be in the same office practice  
16 as the Physician, nor related to the Physician by blood or marriage. The PCP shall be in  
17 charge of providing and coordinating Physician's medical care and treatment. Except in  
18 an Emergency, Physician shall obtain medical care and treatment only from the PCP and  
19 from health care providers to whom Physician is referred by the PCP. Physician shall  
20 request that the PCP document all referrals in the medical record. Physician shall  
21 promptly inform the PCP of Physician's rehabilitation efforts and provide a copy of this  
22 Agreement to the PCP. Physician shall also inform all other health care providers who  
23 provide medical care or treatment that Physician is under this Agreement. For the  
24 purpose of this Agreement, "Emergency" means a serious accident or sudden illness that,  
25 if not treated immediately, may result in a long-term medical problem or loss of life.



1           5.     **Medication:** Except in an Emergency, Physician shall take no Medication  
2 unless the PCP or other health care provider to whom the PCP refers Physician prescribes  
3 the Medication. In the case of over-the-counter Medications, Physician shall provide to  
4 his/her PCP a list of the over-the-counter Medications currently taken; PCP shall review  
5 and approve those and recommend any new Medications needed. For purpose of this  
6 Agreement, “Medication” or “Medications” means a prescription-only drug, controlled  
7 substance, and over-the-counter preparation other than plain aspirin, plain ibuprofen and  
8 plain acetaminophen.

9           6.     Physician shall not self-prescribe any Medication. For the purpose of this  
10 Agreement, “self-prescribe” means starting or stopping any Medication, or altering the  
11 dosage or regimen of any Medication except as directed by the PCP, or stopping  
12 altogether a Medication prescribed by the PCP or other physician to whom the PCP has  
13 referred Physician.

14           7.     If a controlled substance is prescribed, dispensed, or is administered to  
15 Physician by any person other than the PCP, Physician shall notify the PCP in writing  
16 within 48 hours and shall notify the Board Staff immediately. The notification shall  
17 contain all information required for the medication log entry specified in paragraph 8.  
18 Physician shall request that the notification be made a part of the medical record. This  
19 paragraph does not authorize Physician to take any Medication other than in accordance  
20 with paragraph 5.

21           8.     **Medication Log:** Physician shall maintain a current legible log of all  
22 Medication taken by or administered to Physician, and shall present a copy of the log  
23 available to Board Staff by the fifth day of each month. For Medication taken on an on-  
24 going basis, Physician may comply with this paragraph by logging the first and last  
25 administration of the Medication and all changes in dosage or frequency. The log, at a  
26 minimum, shall include the following:

- A. Name and dosage of *Medication* taken or administered;
- B. Date taken or administered;
- C. Name of prescribing or administering physician; and
- D. Reason *Medication* was prescribed or administered.

This paragraph does not authorize Physician to take any *Medication* outside the parameters of this Agreement.

9. **No Alcohol or Poppy Seeds.** Physician shall not consume alcohol or any food or other substance containing poppy seeds or alcohol. It is Physician's responsibility to be aware of and avoid alcohol used in personal hygiene products or in the preparation of food or drink.

10. **Biological Fluid Collection.** During all times that Physician is physically present in the State of Arizona and such other times as Board Staff may direct, Physician shall promptly comply with requests from Board Staff to submit to biological fluid collection. If Physician is directed to contact an automated telephone message system to determine when to provide a specimen, Physician shall do so within the hours specified by Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly comply" means "immediately." In the case of a telephonic request, "promptly comply" means that, except for good cause shown, Physician shall appear and submit to specimen collection not later than two hours after telephonic notice to appear is given. The Board Staff in its sole discretion shall determine good cause. The Board Staff may require the collection to be observed or witnessed.

11. Respondent shall provide Board Staff in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid collection. For purposes of this section, telephonic notice shall be deemed given at the time a message to submit is left at the contact telephone number provided by Respondent.

12. Physician shall cooperate with collection site personnel regarding biological fluid collection. Repeated complaints from collection site personnel that Physician is not cooperating regarding collection may be considered failure to comply with this Agreement.

13. Physician authorizes any person or organization conducting tests on the collected samples to provide testing results to the Board Staff.

14. **Relapse, Violation.** In the event of chemical dependency relapse by Physician or

Physician's use of drugs or alcohol in violation of the Order, Physician shall promptly enter into an Interim Order for Practice Restriction and Consent to the Same that requires, among other things, that Physician not practice medicine until such time as Physician successfully completes long-term inpatient treatment for chemical dependency designated by the Executive Director and obtains affirmative approval from the Board or the Executive Director to return to the practice of medicine. Prior to approving Physician's request to return to the practice of medicine, Physician may be required to submit to witnessed biological fluid collection or undergo any combination of physical examination, psychiatric or psychological evaluation. **In no respect shall the terms of this paragraph restrict the Board's authority to initiate and take disciplinary action for violation of this Order.**

15. **Payment for Services:** Physician shall pay for all costs associated with participating in this Agreement at the time service is rendered, if required, or within 30 days of each invoice sent to Physician.

16. **Out of State Travel and/or Unavailability at Home or Office Telephone Number:** Physician shall provide Board Staff at least three business days advance written notice of any plans to be away from the office or home when such absence would prohibit Physician from responding to an order to provide a biological fluid specimen or from responding to communications from the Board. The notice shall state the reason for the intended absence from home or office, and shall provide a telephone number that may be used to contact Physician.

17. **Examination:** Physician shall submit to mental, physical, and medical competency examinations at such times and under such conditions as directed by the Executive Director to assist Board Staff in monitoring compliance with the terms of this Agreement and Physician's ability to safely engage in the practice of medicine.

18. **Treatment:** Respondent shall submit to all medical, substance abuse, and mental health care and treatment ordered by the Board or Executive Director.

19. **Obey All Laws.** Physician shall obey all federal, state and local laws, and all rules governing the practice of medicine in the State of Arizona.

20. **Interviews.** Physician shall appear in person before the Board and or Board Staff

for interviews upon request, upon reasonable notice.

21. **Address and Phone Changes, Notice.** Physician shall immediately notify the Board in writing of any change in office or home addresses and telephone numbers.

22. **Ceasing Practice in the State of Arizona:** In the event Physician ceases to practice medicine in Arizona by moving out of state, failing to renew his/her license, or maintaining an AZ license but ceasing to practice clinical medicine or administrative medicine requiring licensure, Physician shall notify the Board that he/she has ceased practicing in AZ, in writing, within ten (10) days of ceasing to practice. In its sole discretion, the Board may stay the terms of this Agreement until such time as the Physician resumes the practice of medicine in AZ, or may take other action to resolve this matter.

23. **Notice Requirements.** Physician shall immediately provide a copy of this Agreement to all current and future employers and all hospitals and free standing surgery centers where Physician has privileges. Within 30 days of the date of the Agreement, Physician shall provide the Board Staff with a signed statement that Physician has complied with this notification requirement. Physician is further required to notify, in writing, all employers, hospitals and free standing surgery centers where Physician currently has, or in the future gains employment or privileges, of a chemical dependency relapse.

24. **Failure to Comply/Violation:** Physician's failure to comply with the requirements of this Agreement shall constitute an allegation of unprofessional conduct as defined at A.R.S. § 32-1854(25). Proven violations may be grounds for further disciplinary action, including suspension or revocation of licensure.

25. **Psychiatric treatment.** Respondent shall, at his own expense, schedule an evaluation with a psychiatrist. Respondent shall schedule an appointment within 21 days of the effective date of the Order and shall attend the appointment within 45 days thereafter. The psychiatrist will need prior approval by the Board's Executive Director. Respondent shall comply with the recommendation of the psychiatrist, which may include but not be limited to ongoing treatment based upon the exam results, counseling, and/or substance abuse counseling or rehabilitation.

1       26.    **Board /Staff approved Psychotherapy:** Physician shall within 30 days of the  
2 effective date of this Order, obtain a licensed psychologist to provide psychotherapy, and submit  
3 the name of that person to the Board staff for approval. The initial assessment shall be  
4 completed within 60 days of the effective date of this Order. Physician shall cause that  
5 psychologist to submit to the Board an initial assessment of Physician within 30 days of the  
6 initial visit, and quarterly statements of progress thereafter. Physician shall continue  
7 participation and treatment as recommended by the psychologist.

8       27.    **Required medication.** Pursuant to the recommendations of the rehabilitation  
9 facility, Respondent shall be required to obtain monthly Vivitrol injections from his Primary  
10 Care Physician. The medication shall be taken as prescribed and reported pursuant to paragraph  
11 5 above.

12       28.    **Costs:** Respondent shall bear all costs incurred regarding compliance with this  
13 Order.



ISSUED THIS 22<sup>nd</sup> DAY OF MARCH 2018.  
ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY

By: Rachel Shepherd  
Rachel Shepherd, Interim Executive Director

17       **NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING**

18       Any party may request a rehearing or review of this matter pursuant to A.R.S. § 41-  
19 1092.09. The motion for rehearing or review must be filed with the Arizona Board of  
20 Osteopathic Examiners within thirty (30) days. If a party files a motion for review or rehearing,  
21 that motion must be based on at least one of the eight grounds for review or rehearing that are  
22 allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30  
23 days has the effect of prohibiting judicial review of the Board's decision. Service of this order is  
24 effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing  
25 or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed  
26 to Respondent.

1 Original "Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation"  
2 Filed this 22<sup>nd</sup> day of March, 2018 with:

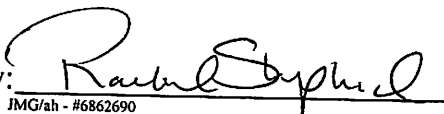
3 Arizona Board of Osteopathic Examiners  
4 In Medicine and Surgery  
5 1740 W. Adams St., Ste 2410  
6 Phoenix, AZ 85007

7 Copy of this "Findings of Fact, Conclusions of Law and Order for Decree of Censure and  
8 Probation" Sent by certified mail, return receipt requested this \_\_\_\_ day of March, 2018 to:

9 Steve Myers, Esq. Mitchell, Stein, Carey  
10 2 N. Central Avenue, Ste. 1450  
11 Phoenix, AZ 85004

12 Copies of this "Findings of Fact, Conclusions of Law and Order for Decree of Censure and  
13 Probation" Sent via U.S. Mail, this 22<sup>nd</sup> day of March, 2018 to:

14 Chetan Patel, D.O.  
15 Address of Record

16 By:   
17 JMG/ah - #6862690